

REMARKS

Claims 5, 7-10 and 12 are currently pending. Claims 5, 8 and 10 have been amended herein. Amendments to claim 5 and claim 10, in part, are based on correction of translational error. Specifically, applicants have amended “disk-shaped member” to “plate-shaped member.” Support for the amendment is found at page 1, line 8, page 3, line 28 (“plate-shaped member”) and page 7, line 13 (“plate-shaped substrate”).

Applicants’ Response to Claim Rejections under 35 U.S.C. §112

The Office Action maintains the rejection of claim 8 under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The Examiner has recommended new language for the claim which removes the terms “for permitting” and “for stopping” from the claim and replaces them with “which (a) causes” and “(b) stops” respectively. Applicants have adopted the Examiners’ suggestions herein.

Claims Rejections – Under 35 U.S.C. §103(a)

Claim 5 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Adourian et al. in view of Smith et al., Burd, and Kambara. Claim 7 is rejected under 35 U.S.C. §103(a) as applied to claim 5 and further in view of Manian; and, claims 8 and 9 are rejected under 35 U.S.C. §103(a) as applied to claim 5 and further in view of Uchigaki et al. In response to the Applicants’ addition of the specimen-injection monitor mechanism and the mechanism sharing a common excitation light source with the detecting optical system, the previous rejection of claim 5 has been modified to include Burd and Kambara. The Office Action points to the window 61 of Burd at the beginning point of a capillary 11 for electrophoresis, as disclosing an equivalent to

a specimen-injection monitoring mechanism, and the laser 227 of Kambara being split 225 and 226 to operate with numerous optical cells 202.

Applicants respectfully traverse on the basis that the combination of the references would not obviously result in the current invention within the meaning of 35 U.S.C. §103(a).

Specifically, one skilled in the art would not likely find it obvious to utilize the split laser 204-1 and 204-2 of Kambara in the apparatus of Burd, and then combine the resultant configuration with a reasonable expectation of success with Adourian et al. and Smith et al. First, Kambara is utilizing a beam to detect numerous optical detecting portions 3a to 3t. Col. 15, lines 8-17. The beams 204-1 and 204-2 only interact with the electrophoresis at one point through window 224. There is no teaching or suggestion towards a specimen-injection monitor mechanism.

Additionally, Burd utilizes a single capillary 11 and a fraction separation cassette 12. See FIG. 1 and col. 2, lines 45-65. Kambara utilized multiply capillaries 1a to 1t and 2a to 2t and a single optical cell 104. The split beam is applied across numerous optical cells. Hence, there is not apparent teaching, suggestion or provided motivation which would lead one skilled in the art to utilize the split beam of Kambara with both the inlet end window 61 and downstream side window 60 of Burd. Hence, one of ordinary skill in the art would not have sufficient motivation to, and a reasonable expectation of success in combining the teachings of Kambara with the other references.

Claims 10 and 12 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Adourian et al and Menchen et al. The Office Action maintains that although Adourian et al. does not disclose an electrophoretic medium-sucking mechanism, Menchen et al. discloses a vacuum system 86 for drawing fluids from the reservoir, and that the combination would be

obvious. Also, in regard to the simultaneous injecting of a buffer liquid into the reservoirs, the Office Action points to Adourian et al. Col. 11, lines 4-10.

In response to the rejection applicants have amended claim 10 herein to more distinctly claim the subject matter of the invention. Specifically, applicants have amended the phrase “injecting a buffer liquid into the reservoirs simultaneously” to “injecting a buffer liquid into all the reservoirs of one electrophoretic member simultaneously.” Applicants respectfully submit that this amendment more fully describes the distinction of the present invention’s function of mitigating water head difference from that of Adourian et al. In Adourian et al. in order to mitigate water head difference, a buffer liquid must be injected simultaneously to all of the injection ports 126 of one test module. Adourian et al. teaches simultaneous injection of a buffer solution to a plurality of test modules (col. 11, lines 4-10), but does not teach the simultaneous injection of a buffer solution to all of the injection ports 126 of one test module. Therefore, Adourian et al. cannot perform the function of mitigating water head difference.

In view of the aforementioned amendments and accompanying remarks, Applicants submit that that the claims, as herein amended, are in condition for allowance. Applicants request such action at an early date.


If the Examiner believes that this application is not now in condition for allowance, the Examiner is requested to contact Applicants’ undersigned attorney to arrange for an interview to expedite the disposition of this case.

Response under 37 C.F.R. §1.116
Attorney Docket No. 011361
Serial No. 09/982,964

If this paper is not timely filed, Applicants respectfully petition for an appropriate extension of time. The fees for such an extension or any other fees that may be due with respect to this paper may be charged to Deposit Account No. 50-2866.

Respectfully submitted,

WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP


Michael J. Caridi
Attorney for Applicants
Registration No. 56,171
Telephone: (202) 822-1100
Facsimile: (202) 822-1111

MJC/mlj